

House Appropriations Committee, January 12, 2015

Constitutional Provisions

Article V, The Legislature

Art. V, Section 11. Bills. (1) A law shall be passed by bill which shall not be so altered or amended on its passage through the legislature as to change its original purpose. No bill shall become law except by a vote of the majority of all members present and voting.

(2) Every vote of each member of the legislature on each substantive question in the legislature, in any committee, or in committee of the whole shall be recorded and made public. On final passage, the vote shall be taken by ayes and noes and the names entered on the journal.

(3) Each bill, except general appropriation bills and bills for the codification and general revision of the laws, shall contain only one subject, clearly expressed in its title. If any subject is embraced in any act and is not expressed in the title, only so much of the act not so expressed is void.

(4) A general appropriation bill shall contain only appropriations for the ordinary expenses of the legislative, executive, and judicial branches, for interest on the public debt, and for public schools. Every other appropriation shall be made by a separate bill, containing but one subject.

(5) No appropriation shall be made for religious, charitable, industrial, educational, or benevolent purposes to any private individual, private association, or private corporation not under control of the state.

(6) A law may be challenged on the ground of noncompliance with this section only within two years after its effective date.

Article VIII, Revenue and Finance

Art. VIII, Section 8. State debt. No state debt shall be created unless authorized by a two-thirds vote of the members of each house of the legislature or a majority of the electors voting thereon. No state debt shall be created to cover deficits incurred because appropriations exceeded anticipated revenue.

Art. VIII, Section 9. Balanced budget. Appropriations by the legislature shall not exceed anticipated revenue.

Art. VIII, Section 10. Local government debt. The legislature shall by law limit debts of counties, cities, towns, and all other local governmental entities.

Art. VIII, Section 11. Use of loan proceeds. All money borrowed by or on behalf of the state or any county, city, town, or other local governmental entity shall be used only for purposes specified in the authorizing law.

Art. VIII, Section 12. Strict accountability. The legislature shall by law insure strict accountability of all revenue received and money spent by the state and counties, cities, towns, and all other local governmental entities.

Art. VIII, Section 13. Investment of public funds and public retirement system and state compensation insurance fund assets. (1) The legislature shall provide for a unified investment program for public funds and public retirement system and state compensation insurance fund assets and provide rules therefor, including supervision of investment of surplus funds of all counties, cities, towns, and other local governmental entities. Each fund forming a part of the unified investment program shall be separately identified. Except as provided in subsections (3) and (4), no public funds shall be invested in private corporate capital stock. The investment program shall be audited at least annually and a report thereof submitted to the governor and legislature.

(2) The public school fund and the permanent funds of the Montana university system and all other state institutions of learning shall be safely and conservatively invested in:

(a) Public securities of the state, its subdivisions, local government units, and districts within the state, or

(b) Bonds of the United States or other securities fully guaranteed as to principal and interest by the United States, or

(c) Such other safe investments bearing a fixed rate of interest as may be provided by law.

(3) Investment of public retirement system assets shall be managed in a fiduciary capacity in the same manner that a prudent expert acting in a fiduciary capacity and familiar with the circumstances would use in the conduct of an enterprise of a similar character with similar aims. Public retirement system assets may be invested in private corporate capital stock.

(4) Investment of state compensation insurance fund assets shall be managed in a fiduciary capacity in the same manner that a prudent expert acting in a fiduciary capacity and familiar with the circumstances would use in the conduct of a private insurance organization. State compensation insurance fund assets may be invested in private corporate capital stock. However, the stock investments shall not exceed 25 percent of the book value of the state compensation insurance fund's total invested assets.

Art. VIII, Section 14. Prohibited payments. Except for interest on the public debt, no money shall be paid out of the treasury unless upon an appropriation made by law and a warrant drawn by the proper officer in pursuance thereof.

Title 5, ch. 12. Legislative Finance Act

5-12-101. Title and purpose of chapter. (1) This chapter may be cited as "The Legislative Finance Act".

(2) Because the legislature is responsible for appropriating public funds, it must provide for fiscal analysis of state government to accumulate, compile, analyze, and furnish such information bearing upon the financial matters of the state that is relevant to issues of policy and questions of statewide importance.

5-12-102. Definitions. In this chapter, the following definitions apply:

(1) "Budget amendment" means a request submitted through the budget director to the committee for executive branch agencies to expend funds in excess of those appropriated by the legislature.

(2) "Budget director" means the budget director appointed pursuant to 17-7-103.

(3) "Committee" means the legislative finance committee created by this chapter.

(4) "State agency" means all offices, departments, boards, commissions, institutions, universities, colleges, and any other person or any other administrative unit of state government that spends or encumbers public moneys by virtue of an appropriation from the legislature, that handles money on behalf of the state, or that holds any trust or agency moneys from any source.

[part 2 applies to Legislative Finance Committee]

5-12-301. Legislative fiscal division. There is a legislative fiscal division. The legislative fiscal analyst shall manage the legislative fiscal division to support the legislative finance committee and carry out the provisions of this chapter.

5-12-302. Fiscal analyst's duties. The legislative fiscal analyst shall:

(1) provide for fiscal analysis of state government and accumulate, compile, analyze, and furnish information bearing upon the financial matters of the state that is relevant to issues of policy and questions of statewide importance, including but not limited to investigation and study of the possibilities of effecting economy and efficiency in state government;

(2) estimate revenue from existing and proposed taxes;

(3) analyze the executive budget and budget requests of selected state agencies and institutions, including proposals for the construction of capital improvements;

(4) make the reports and recommendations that the legislative fiscal analyst considers desirable to the legislature and make reports and recommendations as requested by the legislative finance committee and the legislature;

(5) assist committees of the legislature and individual legislators in compiling and analyzing financial information;

(6) assist the revenue and transportation interim committee in performing its revenue estimating duties; and

(7) review all reports submitted to the legislative fiscal analyst and notify the legislative finance committee of any concerns the fiscal analyst identifies in a report.

5-12-303. Fiscal analysis information from state agencies. (1) The legislative fiscal analyst may investigate and examine the costs and revenue of state government activities and may examine and obtain copies of the records, books, and files of any state agency, including confidential records.

(2) When confidential records and information are obtained from a state agency, the legislative fiscal analyst and staff must be subject to the same penalties for unauthorized disclosure of the confidential records and information provided for under the laws administered by the state agency. The legislative fiscal analyst shall develop policies to prevent the unauthorized disclosure of confidential records and information obtained from state agencies.

(3) (a) The department of revenue shall make Montana individual income tax information available by removing names, addresses, and social security numbers and substituting in their place a state accounting record identifier number. Except for the purposes of complying with federal law, the department may not alter the data in any other way.

(b) The department of revenue shall provide the name and address of a taxpayer on written request of the legislative fiscal analyst when the values on the requested return, including estimated payments, are considered necessary by the legislative fiscal analyst to properly analyze state revenue and are of a sufficient magnitude to materially affect the analysis and when the identity of the taxpayer is necessary to evaluate the effect of the return or payments on the analysis being performed.

(4) Within 1 day after the legislative finance committee presents its budget analysis to the legislature, the budget director and the legislative fiscal analyst shall exchange expenditure and disbursement recommendations by second-level expenditure detail and by funding sources detailed by accounting entity. This information must be filed in the respective offices and be made available to the legislature and the public. In preparing the budget analysis for the next biennium for submission to the legislature, the legislative fiscal analyst shall use the base budget, the present law base, and new proposals as defined in 17-7-102.

(5) This section does not authorize publication or public disclosure of information if the law prohibits publication or disclosure or if the department of revenue notifies the fiscal analyst that specified records or information may contain confidential information.

5-12-401. Submission of budget amendments to committee. All budget amendments for state agencies must be submitted through the budget director to the legislative finance committee as soon as

received by the budget director. No state agency shall expend in excess of its legislative appropriation, which includes a lawfully approved and valid budget amendment.

Title 17, State Finance

Chapter 1, General Administration

17-1-101. Definition of department. Except in chapter 3, part 3, and unless the context requires otherwise, in this title, "department" means the department of administration provided for in Title 2, chapter 15, part 10.

17-1-103. Assistance to legislature. (1) The department shall make all reports and submit all information and data the legislature requests and, when requested, attend all meetings of the appropriations committee of the house of representatives and of the finance and claims committee of the senate.

(2) The department shall, during the consideration of appropriation measures by the house and senate, devote as much of its time as may be required by the committees, under the direction of the presiding officers of the committees.

17-1-111. General fiscal duties of state treasurer. (1) The state treasurer is the custodian of all money and securities of the state unless otherwise expressly provided by law.

(2) It is the duty of the state treasurer to:

(a) receive and account for all money belonging to the state, not expressly required by law to be received and kept by some other person;

(b) pay warrants out of the funds upon which they are drawn;

(c) upon payment of any warrant, record the receipt of the person to whom it is paid;

(d) keep an account of all money received and disbursed;

(e) at the request of either house of the legislature or of any legislative committee, give information in writing as to the condition of the treasury or on any subject relating to the duties of the office of state treasurer;

(f) superintend the fiscal concerns of the state;

(g) suggest plans for the improvement and management of the public revenue;

(h) keep an account of all warrants drawn upon the treasury and of other appropriation records that the treasurer determines to be essential for the support of the accounting records maintained in the department;

(i) keep a register of warrants, showing the fund upon which each warrant is drawn, each warrant's number, who received the warrant, and the date issued;

(j) require all persons who have received money belonging to the state but who have not accounted for it to settle their accounts;

(k) draw warrants on the state treasury for the payment of money directed by law to be paid out of the treasury, except that a warrant may not be drawn unless authorized by law;

(l) authenticate with the official seal of the state all warrants drawn and all copies of papers issued from the office of state treasurer;

(m) collect and pay into the state treasury all fees received;

(n) discharge other duties as may be imposed upon the state treasurer by law; and

(o) provide information through the state's official internet website detailing how donations can be made to the state general fund or to any function of state government.

17-1-122. Discretionary authority of state treasurer. The state treasurer may:

(1) inspect the books of any persons charged with the receipt, safekeeping, or disbursement of public money;

(2) require all persons who have received money or who have had the disposition or management of any property of the state of which an account is kept in the department to render statements to the treasurer. A statement must be rendered at times and in the form prescribed by the department.

(3) promulgate rules regarding the distribution and processing of warrants issued; and

(4) establish a system of filing and storage of the original copy of claims paid by state warrant.

17-1-131. General duties of budget director. (1) The budget director in addition to the duties set forth in Title 17, chapter 7, shall perform other duties that the governor as chief budget officer of the state may direct.

(2) The budget director shall, as often as requested by the governor, prepare and furnish reports to the governor concerning appropriations made by the legislature and the receipts and disbursements made by any department, office, or institution of the state.

(3) The budget director must be available to all standing committees of the house of representatives and the senate concerned with appropriations, revenue, finance, and claims and shall furnish to the committees any information required while the committees are considering the budget.

17-1-132. Access to information. (1) The budget director has the power to demand and receive from every department, officer, board, commission, or institution, at any time, any and all information requested.

(2) The budget director may investigate and examine the costs and revenue of state government activities and may examine and obtain copies of the records, books, and files of any state agency, including confidential records.

(3) When confidential records and information are obtained from a state agency, the budget director and staff are subject to the same penalties for unauthorized disclosure of the confidential records and information as are provided for under the laws administered by the state agency. The budget director shall develop policies to prevent the unauthorized disclosure of confidential records and information obtained from state agencies.

(4) This section does not authorize publication or public disclosure of information if the law prohibits publication or disclosure or if the department of revenue notifies the budget director that specified records or information may contain confidential information.

17-1-501. Legislative intent. (1) It is the intent of the legislature, by establishing criteria for the review and evaluation of revenue dedication provisions, to ensure that provisions for revenue dedication:

- (a) are based on sound principles of revenue dedication as described in 17-1-507;
- (b) reflect present circumstances and legislative priorities for state spending;
- (c) are terminated when they are no longer necessary or appropriate; and
- (d) are subject to the same legislative scrutiny as programs or activities funded from the general fund.

(2) It is the intent of the legislature, by establishing criteria for the review and evaluation of statutory appropriation provisions, to ensure that provisions with statutory appropriations:

- (a) reflect present circumstances and legislative priorities for state spending;
- (b) are terminated when they are no longer necessary or appropriate; and
- (c) are subject to the same legislative scrutiny as other appropriations.

(3) When revenue is dedicated to a local government, it is the intent of the legislature that the dedicated revenue provision be reviewed in the context of the policy and purpose expressed in 15-1-120.

17-1-506. Review of legislation. The office of budget and program planning shall, consistent with the review provisions in 17-1-505, review each piece of legislation that proposes to dedicate revenue. The office shall submit its findings concerning the dedication of revenue on the fiscal notes accompanying that legislation.

17-1-508. Review of statutory appropriations. (1) Each biennium, the office of budget and program planning shall, in development of the executive budget, review and identify instances in which statutory appropriations in current law do not appear consistent with the guidelines set forth in subsection (2).

(2) The review of statutory appropriations must determine whether a statutory appropriation meets the requirements of 17-7-502. Except as provided in 77-1-108, a statutory appropriation from a continuing and reliable source of revenue may not be used to fund administrative costs. In reviewing and establishing statutory appropriations, the legislature shall consider the following guidelines. A proposed or existing statutory appropriation may not be considered appropriate if:

- (a) the money is from a continuing, reliable, and estimable source;
- (b) the use of the appropriation or the expenditure occurrence is predictable and reliable;
- (c) the authority exists elsewhere;
- (d) an alternative appropriation method is available, practical, or effective;
- (e) it appropriates state general fund money for purposes other than paying for emergency services;
- (f) the money is used for general purposes;
- (g) the legislature wishes to review expenditure and appropriation levels each biennium; and
- (h) an expenditure cap and sunset date are excluded.

(3) The office of budget and program planning shall prepare a fiscal note for each piece of legislation that proposes to create or amend a statutory appropriation. It shall, consistent with the guidelines in this section, review each of these pieces of legislation. Its findings concerning the statutory appropriation must be contained in the fiscal note accompanying that legislation.

Chapter 2, Accounting

17-2-108. Expenditure of nongeneral fund money first. (1) Except for the exemptions applicable to the Montana historical society in 22-3-114(5), the Montana state library in 22-1-226(5), the Montana school for the deaf and blind in 20-8-107(5), and the department of public health and human services in 53-1-612, an office or entity of the executive, legislative, or judicial branch of state government shall apply expenditures against appropriated nongeneral fund money whenever possible before using general fund appropriations.

(2) Except as provided in 53-1-612, the approving authority, as defined in 17-7-102, shall authorize the decrease of the general fund appropriation of an agency by the amount of money received from federal sources in excess of the appropriation in an appropriation act unless the decrease is contrary to federal law, federal rule, or a contract or unless the approving authority certifies that the services to be funded by the additional money are significantly different than those for which the agency received the general fund appropriation. If directed by an appropriation act, the approving authority shall decrease the general fund appropriation of an agency by the amount of money received from nonfederal sources in excess of the appropriation unless the decrease is contrary to state law, state rule, or a contract or unless the approving authority certifies that the services to be funded by the additional money are significantly different than those for which the agency received the general fund appropriation. If the general fund appropriation of an agency is decreased pursuant to this section, the appropriation for the fund in which the money is received is increased in the amount of the general fund decrease.

(3) If directed by an appropriation act, the approving authority may decrease a state special revenue, proprietary, or other fund appropriation of an agency by the amount of money received from federal sources in excess of the appropriation unless the decrease is contrary to state or federal law or federal rule. The appropriation for the fund in which the money is received is decreased by the amount of the federal special revenue increase allowed by law, rule, or contract and approved for the purpose.

Chapter 3, Federal Revenues and Endowments

17-3-105. Governor authorized to accept funds -- designation of state agency. (1) The governor is authorized to accept on behalf of the state any federal assistance funds made available by act of congress for programs that are consistent with the needs and goals of the state and its citizens and that are not prohibited by the provisions of this part or other applicable law.

(2) The governor shall designate, unless otherwise specified by state or federal law or regulation, the state agency to administer the accepted federal assistance program.

17-3-108. Approved budget amendment. Financing for new or expanded programs from federal assistance program sources may be made available only by approved budget amendment.

Chapter 4, Debt Collection

17-4-102. Accounts of persons indebted to state. (1) The department may:

(a) examine and settle the accounts of persons indebted to agencies, certify the amount owed, and give the person a discharge;

(b) require a person presenting an account for settlement to be sworn and to answer, orally or in writing, as to any facts relating to the account.

(2) The certificate referred to in subsection (1)(a) must show by whom the payment is to be made, the amount of the payment, and the fund into which the payment is to be deposited. The

certificates must be numbered in order, beginning with number 1 at the commencement of each fiscal year.

17-4-106. Agency owed debt to receive all money collected. (1) All money collected by the department on debts transferred to the department by the various agencies, except funds collected under 17-4-103(3), must be deposited to the account or fund of the agency to which the debt was originally owed. A county shall apply a delinquent personal property tax collection by the department to the payment of the taxpayer's most delinquent personal property taxes or portion of the taxes.

(2) Funds collected under 17-4-103(3) must be deposited in an account in the internal service fund for the cost of assistance of debt collection by the department. Funds deposited in excess of the amount appropriated for operation of the debt collection program must be carried forward into the next fiscal year for operation of the debt collection program. Any excess carried forward into the next fiscal year must be used to reduce the designated percentage of the collected proceeds charged to the various agencies.